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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/603,340	06/25/2003	David Wayne Gregg	64245	2643
27148 7590 09/19/2008 POLSINELLI SHALTON FLANIGAN SUELTHAUS PC 700 W. 47TH STREET SUITE 1000 KANSAS CITY, MO 64112-1802				
EXAMINER				
ADDIE, RAYMOND W				
ART UNIT		PAPER NUMBER		
3671				
MAIL DATE		DELIVERY MODE		
09/19/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/603,340

**Applicant(s)**

GREGG, DAVID WAYNE

**Examiner**

Raymond W. Addie

**Art Unit**

3671

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4, 6, 7, 10-17, 19-27, 29-33 and 49-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 6/25/2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 6, 10, 12, 14, 16, 17, 19, 20, 31-33, 49, 50 are rejected under 35 U.S.C.

103(a) as being unpatentable over Bell # 1,618,564 in view of Wynings # US 2003/0068201 A1.

Bell discloses an apparatus, capable of stamping wet concrete comprising:

A roller (13) having oppositely disposed ends, as at (13a, 13b) and a surface (22) defined by a textured stamp. See Figs. 1, 2.

A receiving portion (11) for rotatably engaging said roller, further comprising:

A cross bar (11) parallel to the axis (12) of the roller (13).

A pair of lateral members (11) rotatably mounted to the cross bar (11).

A handle (10) pivotably attached to the cross bar by a pivotable joint.

What Bell does not disclose is providing removable weights to the cross bar.

However, Wynings teaches it is known to provide manually guided, compaction rollers (10) capable of being used to finish unset concrete, can be provided with removable weights (40), supported on elongated, upright holding mechanisms (38), disposed at

opposite ends of a cross bar (18), such that said removable weights are positioned vertically above said compaction roller (12/14), in order to adjust the gravitational compaction force applied by each end of the compaction roller. See Figs. 1-3, Para. [0019-0020]. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the compaction roller of Bell, with removable weights disposed adjacent the ends of the compaction roller, as taught by Wynings, in order to adjust the compaction force applied to the surface being compacted.

With respect to claims 3, 6, 10, 12, 16, 17, 19, 20, 49, 50 Bell discloses essentially all that is claimed, to include a textured, compaction-roller that is capable of embossing an aesthetically pleasing texture to a soft concrete surface being finished, as is known in the art. Further Wynings teaches it is known to dispose elongated, support holders/bars (38) to permit customized adjustment of the compaction force along the axis of the compaction roller, as is known in the art.

With respect to claims 31-33 Bell discloses a compaction roller, capable of being used to compact lawns and finish soft concrete. A method for stamping wet concrete comprising the steps of:

Providing a compaction roller having opposed ends, and a textured surface, defined by a stamping material.

A receiver portion (11) for rotatably engaging said roller, further comprising:

A cross bar (11) parallel to the axis (12) of the roller (13).

A pair of lateral members (11) rotatably mounted to the cross bar (11).

A handle (10) pivotably attached to the cross bar by a pivotable joint.

What Bell does not disclose is the step of providing removable weights to the cross bar. However, Wynings teaches it is known to provide manually guided, compaction rollers (10) capable of being used to finish unset concrete, with removable weights (40), supported on elongated, upright holding mechanisms (38), disposed at opposite ends of a cross bar (18), such that said removable weights are positioned vertically above said compaction roller (12/14), in order to adjust the gravitational compaction force applied by each end of the compaction roller. See Figs. 1-3, Para. [0019-0020]. Based on the material being compacted. Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to provide the compaction roller of Bell, with removable weights disposed adjacent the ends of the compaction roller, as taught by Wynings, in order to adjust the compaction force applied to the surface being compacted. See Para. [0020].

2. Claims 2, 4, 7, 13, 15, 22-27, 29, 51-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bell # 1,618,564 in view of Wynings # US 2003/0068201 A1 as applied to claims 1, 6, 17 above, and further in view of Chandler et al. # 3,910,738.

Bell in view of Wynings discloses essentially all that is claimed, to include the use of removable weights, disposed on holders, above the compaction roller, as put forth above, but does not explicitly recite the use of vertical posts to support the removable weights. However, Chandler et al. teaches concrete finishing rollers (10), having textured and/or patterned embossing rollers (14), capable of embossing a pattern or a texture (15) onto the top surface of soft concrete during the compaction process. The embossing process being adjusted and controlled based on the tightness of the curing concrete, via the addition or removal of very common "donut" weights (26), supported on a cross bar (17) of said compaction roller (10). Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made that post-type supports for removable weights could be oriented either horizontally, as taught by Wynings, or vertically, as suggested by Chandler et al., solely dependent upon the intended use of the compaction roller, or the type of weights to be used. See Fig. 1; Col. 1, lns. 48-68.

3. Claims 11, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bell # 1,618,564 in view of Wynings # US 2003/0068201 A1 as applied to claims 10, 20 above, and further in view of Brimo # 4,776,723.

Bell in view of Wynings discloses essentially all that is claimed, to include the use of textured, patterned embossing rollers, capable of stamping an impression in soft

concrete, but does not disclose the use of a rubber stamp element for forming a regular brick pattern. However, Brimo teaches urethane-rubber stamping tools (50) can be used to emboss an aesthetically pleasing, "herring bone" brick pattern on soft concrete. Brimo further teaches other shapes may be used according to the desired pattern to be formed. Therefore, it would have been obvious to one of ordinary skill in the art, to provide the compaction roller of Bell in view of Wynings, with rubber stamping tools, as taught by Brimo, in order to emboss a variety of different textures and patterns on soft concrete.

4. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bell # 1,618,564 in view of Wynings # US 2003/0068201 A1 and Chandler et al. # 3,910,738 as applied to claim 22 above, and further in view of Brimo # 4,776,723.

Bell in view of Wynings and Chandler et al., disclose essentially all that is claimed, but does not disclose the use of a rubber stamp element for forming a regular brick pattern. However, Brimo teaches urethane-rubber stamping tools (50) can be used to emboss an aesthetically pleasing, "herring bone" brick pattern on soft concrete. Brimo further teaches other shapes may be used according to the desired pattern to be formed. Therefore, it would have been obvious to one of ordinary skill in the art, to provide the compaction roller of Bell in view of Wynings and Chandler et al., with rubber stamping tools, as taught by Brimo, in order to emboss a variety of different textures and patterns on soft concrete.

***Response to Arguments***

5. Applicant's arguments with respect to the pending claims, have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Raymond W. Addie whose telephone number is 571 272-6986. The examiner can normally be reached on 7am-3:00pm.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571 272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Raymond W. Addie/  
Primary Examiner, Art Unit 3671

9/16/2008